



THE COMMONWEALTH OF MASSACHUSETTS
WATER RESOURCES COMMISSION

Meeting Minutes for March 11, 2004

Members in Attendance:

Karl Honkonen	Designee, EOE
Marilyn Contreas	Designee, DHCD
Cynthia Giles	Designee, DEP
Gerard Kennedy	Designee, DAR
Mark Tisa	Designee, DFG
Joe McGinn	Designee, DCR
Joe Pelczarski	Designee, CZM
Richard Butler	Public Member
Matthew Rhodes	Public Member
David Rich	Public Member

Others in Attendance:

Mike Gildesgame	DCR
Linda Marler	DCR
Michele Drury	DCR
Vicki Gartland	DCR
Peter Weiskel	USGS
Margaret Kearns	Riverways
Moises Pariente	Aquaria
John Murphy	HMA
Jeff Hanson	HMA
Stephen Pike	Brockton Water Commission
Thomas Plouffe	City of Brockton
John Condon	City of Brockton
Liz Beardsley	CDM
Nancy Beaton	CDM
Susan Speers	WAA
James Marshall	Plainville Water Department
Lee Ross	Plainville Water Department
Dave Harwood	Dufresne-Henry
Juan Pablo Diaz Batanero	Aquaria
Betsy Shreve-Gibb	Metcalf & Eddy
Dick Laramie	CDM
Pine DuBois	JRWA
Dave DeLorenzo	DEP SERO
Jack Yunits	City of Brockton
Brian Creedon	City of Brockton

Sara Cohen	DCR
Vandana Rao	EOEA
David Snow	Public

Agenda Item #1: Executive Director's Report

Marler provided an update on the hydrologic conditions:

- February was another dry month, with only about 54% of normal precipitation or 1.7 inches. March is also coming in below normal. This will be the second dry month in a row. January only had 43% of normal precipitation. There is not much of a snow pack anywhere in southeastern New England to provide spring recharge. However, the flood outlook is below normal.
- Ground water levels have declined to the below normal range in eastern Massachusetts, but were still normal in western Massachusetts. The March trend is continuing downward due to the below normal precipitation. It has rained frequently, but these rains have not produced much quantity.
- Streamflow has also declined to the below normal range in all of Massachusetts. The month started out near normal, but it has declined to below normal. Streamflows have come up a bit during the first week of March, when there were warm temperatures, snowmelt and a bit of rain.
- Water supply reservoirs levels are still in the normal range for this time of year, but levels have started to decline. At this time of the year, it would be expected that levels would be on an upward trend. Many are in the 90th percentile of full or above normal, which is a good point to be, even if levels start to come down. This could be a cause of concern if reservoirs are not replenished in the next couple of months.
- Fire danger levels also got very high at the end of February as a result of the lack of precipitation. This is not good for February. The levels have returned to low as a result of recent wet weather, however, it will not take much, only a few days of drying out, before the fire danger levels increase again.
- The National Drought Mitigation Center has put much of Massachusetts into an abnormally dry condition.
- The National Weather Service is predicting, at best, normal precipitation for the remainder of the month. This could possibly turn into another dry month.
- We have been in touch with John Tommaney of MEMA about possibly convening the Drought Management Task Force in April if things don't improve dramatically in the next few weeks.

Honkonen stated that the long-term predictions were conflicting. Marler said there was no clear signal as to what was going to happen climatologically. This could be resolved with one week of big rainstorms.

- Honkonen stated that last Monday, March 8th, was the 20th anniversary of the Interbasin Transfer Act.
- A first meeting for the Water Policy Task Force has been tentatively set for April 7th. The Task Force is an interdisciplinary group of 25 members. The invitations have not formally gone out yet. In April, the Task Force will probably look at primary issues and concerns with water policy in the Commonwealth.

- We are seeking to appoint or reappoint three new public members. A list of names has been generated and reviewed by the Secretary and is now being reviewed by the Governor's office. There has been no formal resolution yet but we are getting closer.

Agenda Item #2: Vote on Plainville's Interbasin Transfer Application

Drury acknowledged the Plainville representatives. She stated that this Staff Recommendation has been discussed at the last few meetings. There have been no major changes in the Staff Recommendation since last month. Plainville is applying to transfer this water from the Lake Mirimichi wellfield in the Taunton River basin for ultimate discharge to the North Attleborough Wastewater Treatment Plant, located in the City of Attleboro, in the Ten Mile River basin. Water crosses a basin line and town line, and so is subject to the ITA. Staff has recommended that Plainville meets all of the applicable criteria of the ITA. The recommendation has been conditioned to make sure that Plainville continues with its water conservation efforts and that the Local Water Resources Management Plan is completed. There are thresholds for cut back and shut off, because one of the main concerns brought up through the review and public comment period was that Lake Mirimichi is an impacted environment due to the City of Attleboro's withdrawals. There are concerns that these are already causing a problem. The thresholds assure that Plainville will not aggravate that problem. Plainville will need to shut off before levels hit areas that will impact Attleboro's current use.

Kennedy asked about increases over the 0.4 mgd applied for in this request. If the Town's needs grow, what's the process? Plainville would need to go through MEPA, DEP and ITA. It was hoped, originally, that Plainville could request a Determination of Insignificance for this source, since it is less than 1 mgd, but given the fact that Attleboro is already impacting the lake, more review of impacts from this withdrawal was needed. If Plainville came back for an increase, they will probably need to go through the full review again. Kennedy asked if any population projections were available. Marshall said that this would be all that's necessary to meet Plainville's needs for the next 20 years. Drury added that Plainville has exhausted all their local sources. So if population does grow, we hope that they will discuss future needs with us so we could assist them to plan for any future interbasin transfer they may need. Marler added that she'd be surprised if these three wells would have the capacity to sustain additional withdrawals. They are very shallow.

Spears referred to the letters from Mike Burgess of the City of Attleboro. She asked if these have been considered. Has Plainville had the opportunity to talk with Attleboro? Laramie stated that he was there representing Attleboro. Attleboro is concerned about impacts to their prior use. Drury distributed a letter to Attleboro from Staff that was sent out this week in response to Attleboro's comments. One of the conditions put on Plainville, through this recommendation, was that they could not impact Attleboro's use. Plainville will need to shut off before they begin to impact Attleboro. Many of the comments heard from members of the public had to do with existing impacts. With this letter, Staff tried to alert Mr. Burgess of this because this information has also been shared with DEP. DEP is addressing these concerns with Plainville. If and when Attleboro applies for a WMA permit, they will also need to address concerns about impacts from their use. Our charge under the ITA is that existing uses cannot be adversely impacted. Attleboro's use is protected under this Staff Recommendation. Gildesgame added that the conditions in the Staff Recommendation are not intended to inhibit Attleboro's current or future

use of the water. Drury stated that if Attleboro is using the water and causes a drawdown, then Plainville is impacted. But that was the risk Plainville knew they were taking.

Laramie then said that the concern on Attleboro's part is that their current use is going to have to increase because they have been notified by DEP that they can no longer operate under a combined permit under the WMA. Attleboro currently has been exceeding their specific authorized amount from the Ten Mile River basin. They will have to take more water from the Taunton River basin to meet their demands and the DEP's new conditions. Plainville's additional withdrawal from the same water supply source will impact Attleboro's ability to meet their current authorization under the Wading River source. DeLorenzo stated that DEP was working with both communities. If Attleboro had an authorized withdrawal, they had authorized access to that volume of water. DeLorenzo stated that he is confident that the IBT restrictions on Plainville will assure that Attleboro's prior rights will be honored. Attleboro is in line first. Plainville needs to shut off first before Attleboro is impacted. Laramie persisted and said that in a dry year, the water wouldn't be there for Attleboro if Plainville uses it. Marler said that the threshold for Plainville to shut off was two feet below the spillway and these wells by themselves will cause only 1/10th of a foot of drawdown. The wells will be cut back and then shut off as levels drop. Staff is not dismissing Attleboro's concerns. They have been incorporated into the Staff Recommendation.

Laramie said that Burgess hasn't been contacted and he's not aware of Attleboro's role in carrying out the conditions of this approval. Drury stated that the WRC has no jurisdiction over Attleboro under this review. Staff suggested that Plainville try to work cooperatively with Attleboro and in the response to Mr. Burgess, it is stated that they are aware that Attleboro hasn't been contacted yet. Mr. Marshall has said that Plainville is waiting for the mayoral and DPW transitions in Attleboro to be complete. It is recommended that Attleboro and Plainville work cooperatively. This has also been extended to all communities in the Wading River subbasin, along the lines of the Canoe River Aquifer Advisory Committee. The WRC doesn't have the jurisdiction to make people work together, but it does have the jurisdiction to recommend that they try to work together and that's what has been done here.

Marshall stated that he sent a letter to Burgess on March 3rd asking to set up a meeting at Attleboro's convenience. Marshall has not heard back yet.

V O T E	<p>Giles moved, with a second by McGinn to approve Plainville's Lake Mirimichi wellfield Interbasin Transfer application as per the Draft Decision document of 3/11/04.</p> <p>The vote was unanimous of those present.</p>
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Agenda Item #3: Vote on Brockton's Interbasin Transfer Application

Drury acknowledged Brockton's representatives, including Mayor Yunits and Aquaria. Last month, approval of this application was recommended after a very involved discussion of this project. To recap, this is Part Two of the Aquaria review. The WRC approved Aquaria's compliance with the environmental criteria of the Act last August. This review focuses on Brockton's compliance with the water supply management criteria of the Act. These are: investigation and development of all viable local sources, water conservation, a forestry

management plan and a Local Water Resources Management Plan. Last month, Staff recommended that Brockton has met these criteria. Brockton has also complied with the MEPA requirement that they file a Notice of Project Change for the Aquaria project. Staff has recommended a few conditions to assure that Brockton continues with its conservation program and enhances its forestry management program. These are listed on pages 20 and 21 of the draft Decision. Drury went through the conservation conditions, including the requirement for a plan to reduce unaccounted-for water to 10% or less. She reminded the WRC that it was stated last month that although Brockton did not meet this Performance Standard, the City was providing an alternate method by replacing older pipes and upgrading metering and leak detection. Under the Forestry Management Plan conditions, Drury stated that as part of the review, Staff noted that DEP had just completed Brockton's source water protection (SWAP) review. The SWAP program was contacted to see what kind of recommendations from that report DEP would like to see implemented, what their priorities were. DEP gave Staff four priority recommendations: working with local officials to control residential growth; discouraging birds from lingering at Silver Lake and Brockton Reservoir and looking for the presence of beaver; working with emergency response teams; and encouraging regular street sweeping. Staff has incorporated these into the conditions for the Forestry Management Plan criterion.

There was an extensive discussion last month about Brockton's operations at Silver Lake. This is not jurisdictional under this Interbasin Transfer review. The WRC's jurisdiction is limited under this review to making a decision as to whether or not Brockton has complied with the water supply management criteria of the ITA with respect to the Aquaria project. Staff is recommending that Brockton is in compliance with those. Unless and until Brockton increases the capacity of the transfer facilities at Silver Lake, there is no jurisdiction over operations there under the ITA. Having worked with Brockton for 20 years or more, Staff believe that unless Brockton can find a reliable long-term source of water, they will continue to use Silver Lake to maximum extent allowed by DEP, as they will have no other option. Staff believes that giving Brockton a little more flexibility will be in everyone's interest. WRC Staff, DEP Staff and Staff from other environmental agencies have been working with Brockton for several years and the City has done everything they've been asked to do.

Tisa said that he was concerned by the lack of an operational plan for Silver Lake and understands that it is outside of the jurisdiction of ITA, but he strongly encourages Brockton to work with Staff and members of environmental community to develop a plan that balanced water supply needs and environmental interests. Drury added that this was in the Staff Recommendation.

Yunits thanked Staff and DEP for all their hard work and stated that Brockton was willing to cooperate. Pike stated that at the Brockton Water Commission meeting of March 9th, the WRC Staff Recommendation was reviewed and he is authorized to commit to abiding by the conditions. Brockton has always been willing and will continue to engage in any constructive dialog regarding the stewardship of the Silver Lake system. Brockton will be providing a letter to this effect.

DuBois thanked the WRC and Staff for responding to her comments of last month and stated that she respects the opinion of Staff that there is nothing that can be done with the conditions that would actually help to define how this application and permit will help with the flexibility of the Brockton system, but, she stated, it is JRWA's opinion that there should be a condition with

respect to use of Silver Lake. She said “We all have a very long history here. We’ve all worked very hard to understand each other, but the fact remains that Brockton thinks they’ve cooperated and we think they haven’t in terms of actually affecting environmental stability in the Silver Lake system. And that’s a fact. We all need much more of a commitment to act and do something here that makes a difference. If this Act was passed 20 years ago to establish this as a last resort, it is certainly a last resort for the Silver Lake system. I’ve stated all along I think Brockton should be getting this water, however if operations at Aquaria simulate operations at Silver Lake, then you will not be accomplishing your goals, one of which is to bring flexibility to the system, the other is to provide a reliable water supply for the City of Brockton. I think you need additional conditions in the Staff Recommendation”.

V O T E	<p>McGinn moved, with a second by Giles:</p> <ul style="list-style-type: none"> a) To accept the Staff Recommendation that Brockton has met the water supply management criteria of the Interbasin Transfer Act, and so approve the purchase of water by Brockton from the Aquaria project b) To approve Brockton’s Local Water Resources Management Plan <p>The vote was unanimous of those present.</p>
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Agenda Item #4: Update on the Office of Commonwealth Development

This item was postponed as McCarthy had a conflict.

Agenda Item #5: Discussion of WRC Work Plan for 2004

Honkonen stated that the WRC discussed a draft version late last year. He wants to verify that the products being developed are ones that the WRC feels are valuable. Some projects are things that have been underway for some time; others have some pieces, which need to be completed. Honkonen wants to be sure that the work plan is on the right track.

Kennedy stated that there was some discussion on how the role of the WRC integrates with the concept of smart growth. Honkonen said that when we have had the discussion concerning the Office of Commonwealth Development, this would be better informed. Until then, it is premature to finalize this. Gildesgame asked if this should be an item in the work plan. Kennedy said yes, this was part of the discussion at the July retreat and it was also brought up a recent WRC meeting. We need to outline how we fit in with smart growth issues and with what OCD is doing. Contreas added that this is what led to asking McCarthy to attend the meeting. Gildesgame stated that this is an important point, but given the extent of the work plan, and that the Water Policy Task Force is not yet underway, maybe it is something that could be deferred until next year or the end of this year or integrated into other items in the work plan. It is a work load issue as well.

Honkonen stated that Drury had attended a meeting in his absence with OCD, relative to how Offices and agencies are working to implement the ten Commonwealth Development Principles. Drury stated that last year, OCD distributed a form for agencies to fill out explaining how their work integrated with smart growth principles. A form was completed for the Interbasin Transfer Act program (it was in last month’s package). The meeting Drury attended discussed how OCD could do more with the agencies and what types of tools could be given to agencies to help them better integrate smart growth into their programs, especially agencies which distribute grants.

OCD is trying to come up with a checklist that will show how a grant furthers the aims of OCD. The WRC could be thinking about how the actions on our work plan further the aims of smart growth (or not). It was suggested that the item under Water Development and Growth be integrated into the smart growth item that Kennedy mentioned. This item seems to have more to do with the Water Assets project, but Water Assets seems to work into the sustainable development principles. Everything we do relates to sustainable development.

Pelczarski suggested that an item called “emergency” should be added. WRC Staff performs this function anyway by attending the Emergency Management Team and Drought Task Force meetings. This should be formalized in the work plan. Honkonen asked Marler to draft some language for this item.

Rhodes asked about an item to address safe yield of river basins and if there any mechanisms to address this. Giles said that developing streamflow numbers was the first step. Once we have the capacity to define the amount needed to remain instream for habitat, we can work back from that. Rhodes said that there are some areas where streamflow numbers are not relevant, where the water resources are groundwater related. Giles said that she thought the streamflow task force was looking at how to do this for these sorts of “unassessed” basins. Marler said that she agreed with Giles, that for most of the state we need to look at what needs to be left in the streams, but the old basin yield studies tried to look at groundwater dependant basins. These were just a “giant water balance”. Drury said that work with USGS under the Chapter 800 produced several reports concerning aquifer yield. Weiskel added that at least half the state has been done, though the reports are somewhat dated. Recent work done in the last few years supercedes these reports. The newer work is more geared towards habitat and sustainability, when considering the safe yield question. USGS is about to start a study in the Sudbury basin, but there is no long-term plan to continue these studies. Honkonen asked how future basins were prioritized, and Weiskel replied that, right now, the stressed basin report is the only basis for prioritization that he was aware of. Marler said that the Watershed Initiative was also addressing these issues through its funding. Honkonen said that this money still exists in bond funds, but whether or not it is spent is another story. It is probably too late to include this into the FY05 capital budget but if the WRC sees the need for funding for future work plan items, we’ve got to start the process now. Honkonen said he would offer priorities to the Secretary and, added Contreas, to the newly formed Water Policy Task Force, for funding.

Rich asked about the Water Conservation item: have we established a subcommittee? If not, the timeline will not be met. Gildesgame said the first step would be to determine if the Standards need to be revised and if so, in what way. This should be a Commission discussion. The Lawn and Landscape Guidelines and Standards were added in 2002. There may be other things that need to be looked at.

Agenda Item #6: Presentation on The Generic Environmental Impact Report

Gildesgame noted that the front pages of the GEIR and the Practical Guide to Lake Management in Massachusetts were included in the WRC mailing. This is the culmination of a long process developed to focus on how to manage lakes and ponds better and standardize responses from Conservation Commissions across the state to lake management proposals. The process also included ways to better inform notices of intent and other project proposals for lake management in the Commonwealth. The GEIR has been out for public review through MEPA. Comments are due tomorrow (3/12). The GEIR has been posted on the DEP, DCR and MEPA websites. To

date, according to MEPA, not many comments have been received. The GEIR is over 700 pages. The Practical Guide is about 150 pages. The key point is how to get lake management projects developed, promoted, permitted and implemented in a way that follows the best science available and provides a way to educate local lake residents and communities and empower them to know more about their lakes and take a more active role in managing them. The information in the GEIR page is a brief summary of the information in the whole document and includes the recommendations from the Citizen's Advisory Committee (CAC). The CAC is an extremely diverse committee, which has dealt with many "sticky" issues. The GEIR is intended to be a practical and useful document. The GEIR provides a lot of good reference material, however it is expected that more people will use the Practical Guide on a regular basis in dealing with lake management issues.

Tisa, who also worked on this document, stated that this is an important document and acknowledged Gildesgame's help and support in getting this to completion. Tisa stated that Gildesgame worked closely with DFG. Gildesgame acknowledged many other WRC members, including Kennedy and DEP staff, who helped in the development of the GEIR. Gildesgame said that he expected the Secretary's Certificate by March 19th. Then, five workshops will be held across the state, primarily focusing on Conservation Commissions, but also open to the public, to present the GEIR and how to use it. This GEIR follows the lake policy adopted by the WRC in 1994.

Kennedy said that DEP was also developing guidance that relates to lake management for Conservation Commissions and asked about the status of that and how it relates to the GEIR. Gildesgame said that the DEP guidance relates more to permitting issues and deferred to Giles, who stated that DEP's guidance is consistent with the GEIR. It will be much shorter than the GEIR and is designed to help Conservation Commissions deal specifically with wetlands issues. Kennedy asked if it would be released at the same time as the GEIR. Giles stated that it should be released soon and DEP will be participating in the five workshops to help explain it. Tisa asked for copy of the DEP document, once it was released. Gildesgame said that the policy guidance by DEP is really intended to be a specific guide tailored to a Conservation Commission for permitting. Laramie asked if the GEIR dealt with dam removal. No, Gildesgame said. If the dam is removed, there is no lake. Gildesgame referred Laramie to Riverways' River Restore program.

Other Business

Kennedy asked about the Executive Session scheduled for next month on the work plan. Honkonen said that this would need to be moved back, because the purpose was to discuss the recommendations of the Water Policy Task Force, which hasn't yet convened. This will be scheduled once the Task Force issues its recommendations.

Meeting adjourned

Meeting minutes approved 12/9/04